

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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In re: MIRAPEX PRODUCTS LIABILITY  
LITIGATION

MDL No. 07-1836-MJD-FLN

*This document relates to:*

**Civil No.: 10-cv-1132-MJD-FLN**

BRIAN RIDENOUR,

Plaintiff,

**PLAINTIFF'S MEMORANDUM IN  
SUPPORT OF PLAINTIFF'S MOTION  
TO COMPEL PRODUCTION OF  
DOCUMENTS FROM DEFENDANTS**

v.

BOEHRINGER INGELHEIM  
PHARMACEUTICALS, INC., a Delaware  
corporation; PFIZER INC., a Delaware  
corporation; PHARMACIA  
CORPORATION, a Delaware corporation;  
and PHARMACIA & UPJOHN  
COMPANY LLC,

Defendants.

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Plaintiff, Brian Ridenour ("Plaintiff"), served Defendants Boehringer Ingelheim Pharmaceuticals, Inc., Pfizer, Inc., Pharmacia Corporation, and Pharmacia & Upjohn Company, LLC (hereinafter, collectively, the "Defendants") with Plaintiff Brian Ridenour's First Request for Production to Defendants on April 26, 2011. To date, Defendants have not produced any documents responsive or made objections to Plaintiff's production request. Therefore, Plaintiff moves the Court for an order compelling Defendants to produce documents that are responsive to each production request (#1 through #39) contained within Plaintiff's production request.

## I. PROCEDURAL HISTORY

On June 6, 2011, United States Magistrate Judge Franklin L. Noel issued an Order & Report and Recommendation recommending that Defendants' Motion for Summary Judgment should be granted and therefore all claims in Plaintiff's First Amended Complaint should be dismissed with prejudice.<sup>1</sup> Plaintiff filed his objections to the Magistrate Judge's Report and Recommendation on June 20, 2011.<sup>2</sup> That objection is currently pending before the District Court.

However, prior to the Magistrate Judge's issuance of his Report and Recommendation on June 6, 2011, Plaintiff and Defendants filed a joint motion<sup>3</sup> requesting that discovery be stayed and that certain deadlines contained within the Pretrial Schedule<sup>4</sup> (e.g. discovery deadline and non-dispositive motion deadline) be postponed until the Court made a ruling on Defendants' Motion for Summary Judgment. This joint motion was denied as moot in Magistrate Judge Noel's Order & Report and Recommendation. Therefore, while Plaintiff's objections to the Magistrate Judge Noel's Report and Recommendation is pending, Plaintiff moves herein, prior to the July 1, 2011 deadline for such non-dispositive motions, for an order compelling Defendants to produce documents responsive to Plaintiff's production request.

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<sup>1</sup> Order & Report and Recommendation, Dkt. No. 106

<sup>2</sup> Plaintiff's Objection to Magistrate Judge Franklin L. Noel's Report and Recommendation Granting Defendant's Motion for Summary Judgment, Dkt No. 107.

<sup>3</sup>Joint Motion to Stay Discovery Pending the District Judge's Ruling on Defendants' Motion for Summary Judgment, Dkt. No. 104.

<sup>4</sup> Pretrial Schedule, Dkt. No. 19.

## **II. ARGUMENT AND AUTHORITIES**

Plaintiff is entitled to an order compelling Defendants to provide responses to Plaintiff's request for production of documents. Rule 26 of the Federal Rules of Civil Procedure set forth general provisions regarding the scope of discovery. Under Rule 26(b)(1), parties may obtain discovery regarding any non-privileged matter that is relevant to the pending action whether it relates to a claim or defense of the party seeking discovery or a claim or defense of any other party. A party may obtain discovery by, amongst other means, requests for production of documents.<sup>5</sup> The party on whom requests for production are served must provide answer and responses within thirty days of being served.<sup>6</sup> If that party fails to provide responses, the opposing party may file a motion to compel responses.<sup>7</sup>

Plaintiff served Defendants with Plaintiff Brian Ridenour's First Request for Production to Defendants on April 26, 2011.<sup>8</sup> A response and/or objections were due on or before May 26, 2011. However, to date, Plaintiff has received neither responsive documents nor objections from any of the Defendants.<sup>9</sup>

## **III. CONCLUSION**

Defendants are delinquent in responding to Plaintiff's request for production of documents. The discovery sought is relevant to the claims and defenses asserted in this action. Plaintiff is entitled to an order compelling discovery.

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<sup>5</sup> Fed. R. Civ. P. 34(a).

<sup>6</sup> Fed. R. Civ. P. 34(b)(2)(A).

<sup>7</sup> Fed. R. Civ. P. 37(a)(3)(B).

<sup>8</sup> See Affidavit of Jon Godoy, ¶3.

<sup>9</sup> See *Id.* at ¶4.

Dated: June 30, 2011

/s/ Thomas M. Corea

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